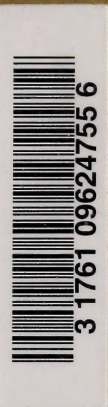


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# PANEM ET CIRCENSES

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A PLEA FOR THE REPUBLIC

The writer of this article is a lawyer, past middle age, who, having made a modest competence from a practice not too large and engrossing to prevent other studies, sometime since retired from practice that he might have more time for such studies and work as are within the scope of this article and for others outside its scope. He has never been what is known as a corporation counsel and holds no brief for any special interest or great fortune. The article expresses his own convictions and proceeds alone from his desire as a private citizen and in the way that to him seems best, to perform his part of the duty now pressing upon all to see that no harm comes to the Republic.

## PANEM ET CIRCENSES.

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Two articles in the June number, 1906, of the North American Review, show, in the language of the eminent publicist, Mr. Wayne Mac Veagh, the author of one of them, that "President Roosevelt's recent expression in favor of graduated taxation" has "removed the question of such taxation from the realm of academic discussion and brought it into the domain of practical politics and legislative enactment," and the author of the other article who chooses to remain unknown, but who very ably expounds his views, and is described by the editor of the Review as "the most profound philosopher living in the United States to-day" concurs with Mr. Mac Veagh in the advocacy of President Roosevelt's suggestion, and he depicts the majority of the voters of this country as being in an attitude of hostility towards the possessors of large fortunes and as believing that the present distribution of property is grossly inequitable and unjust and as having the power and an increasing disposition to take by use of the taxing power of the State a large part of the property of the rich and divert it into the common fund—the treasury of the State—and he urges the progressive taxation of large fortunes, both as a just concession to this class and in the hope that it will stay their further demands. The expressed purpose, founded in sincere belief, is that it is for the welfare of the State to prevent by means of such taxation the accumulation of great fortunes, but the effect of the suggestion and its advocacy is to encourage the majority of the voters to put an unequal share of the burden of supporting the government upon the property of the rich; to create by law class distinction and class

antagonism between the poor and the rich, and to provide the demagogue with largess in the form of various State benefactions from the public treasuries thus filled, for distribution to the poor—the majority of the voters.

The purpose of this article is to endeavor to show that the evils complained of and which in some measure do exist, have other proper and efficient remedies and that President Roosevelt's suggestion is as unnecessary as it is dangerous. As "the most profound philosopher" in the United States has entered the lists, and as the question has appeared in all ages and under all governments it is meet that "Maximus philosophorum" Plato "who alone of all the Greeks reached to the vestibule of truth and stood upon the threshold" should be heard. In his Republic, where he discusses how a democracy is changed into a tyranny, Plato says:

"It is plain then that this president of our State, after hurling down many others, sits in his office a consummate tyrant of the State—and not a president. Shall we then examine the happiness both of the man and the State in which such a mortal as this is engendered? Let us do so, by all means. Does he not then in the first days and for a brief season smile and salute everyone he meets, and asserting himself to be no tyrant, promise many things, both in public and private, and liberate men from debts and distribute land both to the public and those about him and affect to be mild and liberal towards all."

There is much loose thinking and expression on the subject of great fortunes. It is the habit to speak of the aggregate of the great fortune and of the sometimes objectionable character and conduct of its possessor and to overlook the fact that great fortunes are generally much subdivided as to the spheres of their uses and that their employments are generally directed and supervised by able and honorable men who account to the owners of such fortunes. The great fortunes acquired or augmented by dishonest methods and controlled and directed by their dishonest possessors are comparatively few in number and, in general, they can be depleted to honest dimensions and their dishonest possessors be punished by enforcement of the laws against dishonesty, and without striking honest fortunes and their honest owners. Great fortunes are not a menace to a great country. They are needed for its great enterprises and it is but seldom that one great fortune is embarked in a single great en-

terprise for the chances of its substantial loss are too many for such a risk to be incurred. On the contrary, a great enterprise is generally created and supported in the first and most perilous stage of its existence by large parts of several great fortunes contributing to that adventure. A fortune, great in its aggregate, is generally found widely distributed in business activities—invested largely in the various stocks and bonds wherewith the money is procured to create and carry on great enterprises. The possessors of some of these great fortunes are incapable of conducting great business affairs, or do not wish to engage in commercial pursuits—often they are women or minors—but their fortunes under the direction of agents, trustees or other advisers, enter into the various channels of business and supply to many men of ability the means wherewith to make both the money and their abilities fruitful to the public good.

And these great fortunes in a comparatively short time, through the perils of business and the laws of inheritance and the provisions of wills become divided in ownership; and the laws of nearly all, if not all, the States, make null the efforts of such of the owners of great fortunes as seek to indefinitely prolong and perpetuate them by deed or will. These laws by what is known as the rule against perpetuities, forbid the entailment of or holding together any fortune, or property, beyond the duration of the life or lives of one or more designated persons living at the time of the death of the testator or grantor, and twenty-one years after the death of the last survivor of such designated persons. Also the States now generally keep a similar control over corporations by limiting the term of their existence—with few exceptions corporate charters expire within from twenty to fifty years from their creation—the few having perpetual charters are mainly college, hospital and railroad corporations, and these charters, as a rule, were granted many years ago and before the era of business corporations. And if any corporation violates the law by misuse of its wealth or of its charter powers then, on proof of such fact, its corporate life can at once be taken by judicial decree annulling its charter.

But there are fortunes, both great and small, dishonestly acquired or augmented and dishonestly used. What is the remedy? The enforcement of the law against dishonesty, and in some respects, the amendment of the law to make the consequences of dishonesty more severe. Where the violation of law,

is of that nature by which small amounts are indirectly and indiscriminately taken from numerous individuals of the general public and cannot be restored to such individuals then let the law provide very heavy money penalties payable to the State by the wrongdoer who is making or shall have made a fortune in that way. If the wrongdoer at the suit of his victim has been found guilty of fraud by decree of court and adjudged to refund the amount so obtained, then in addition to that amount, let him be adjudged by the court to pay to the State an amount equal to that adjudged to be paid to his victim; and in all cases where the fraud also amounts to crime, enforce also the punishment provided by law for the crime. Dishonest fortunes will crumble under such blows and the fear of them will be the strongest possible deterrent against such dishonest acquisitions.

To deplete or prevent honest great fortunes by graduated or progressive taxation on the ground that they are a menace to the State is a plea sincerely and unselfishly made by some, but it is most often heard in the mouths of those most disposed to shift their burdens upon and to share in the fruits of the labor, the self-denial, the skill or the good fortune of others, and having the power and expecting to be the beneficiaries, they would gradually move the line between great and other fortunes to where even the small fortune would be brought under the depleting tax. In the statute books of a republic no one should be able to trace a line between classes, but should find there only citizens with equal duties and equal rights—and property with equal burdens and equal protection. Equality of taxation—of burden—is of the essence of a true republic, and such equality should be departed from only when the State is in peril from war or impending war and must resort, even by unequal taxation, to the extraordinary sources of revenue to meet the extraordinary occasion, and when the peril has passed the State should return to that equality as a ship emerging from a storm resumes the methods and the discipline which govern ordinary life at sea. Such has been the course of our government in the civil war and in the war with Spain. But, say these advocates of the unequal taxation of the rich, does not England levy both a graduated inheritance tax and a tax on incomes? It is true and under the same circumstances this country should do likewise. The most favorable condition in which England, as the heart of the British Empire, ever finds herself is that of armed peace. War that im-

perils her existence as a free country always impends and she must keep her huge and burdensome war navy in the highest state of efficiency and readiness to repel some instant blow, and even now many of her leading men are advocating the conscription of all her able-bodied male citizens into the army to be ready to resist the enemy should he break through her guarded fleet and land in England. Must we advocate the conscription of our citizens because England does? Have circumstances ceased to alter cases? France, too, a republic, draws upon all the extraordinary sources of revenue to support the fleet and her army of conscripted citizens with which she confronts the dreaded foe on her border. To say that we should resort to these extraordinary and unequal forms of taxation, because England and France compelled by the exigencies of their situation must do so, shows to what extremities the advocates of the unequal taxation of the rich must go in their search for precedents.

When every dollar under direct taxation bears its equal proportion of the public burden the owner of one million dollars pays one million times as much taxes as the owner of one dollar. Who has the most pays the most, and it is not the individual who pays, but it is the dollar; the citizen pays in his capacity as owner of the dollar and pays out of the dollar. And the attempt, in whatever guise it may appear or whatever fair name may be given it, to make the dollar belonging to one citizen pay more of this public burden than the dollar belonging to another citizen, is essentially unjust.

The demand for a tax upon incomes, is one of the methods by which it is sought to put unequal burdens upon the property of the rich and of the well-to-do. When the income is received it is quickly expended for personal and family uses—or is retained as money—or is invested in some form of property. If spent for personal and family uses, much of it goes into property consumed in the using which has paid its tax—if retained as money or invested in property such money and property must each pay its taxes. To tax for the same year both the income and the money or the property into which it was converted, is double taxation. Many of the competences and smaller fortunes are made from saving a part of the annual income. If such annual income is five thousand dollars and the recipient saves three thousand dollars annually, to tax him for that year on both the five thousand dollars and the three thousand dollars is direct double

taxation on the three thousand dollars and indirect double taxation on the greater part of the two thousand dollars expended in living expenses for articles already tax-paid, and which tax was recouped from him in the price he paid for them. But these facts and reasons are of no avail with the greater part of those who receive no income, of the taxable amount but who, being the majority, can vote the imposition of the tax upon those who do receive such incomes.

To treat all citizens alike—to treat all property alike—to make ample provision for the helpless poor—are the outlines of a government, not paternal, that provides for the full self-development of a free people. Such a government, to avoid paternalism, must necessarily leave many things free from governmental interference and to the self-directed action of its citizens through their customs, habits, aspirations and ambitions, and leave unobstructed the commingling of the people and the voluntary help and kindness extended from the more to the less fortunate, unseparated by class walls erected by laws. Leaving out of consideration the large benefactions coming from a few great fortunes, said to be more or less tainted, the aggregate coming from other fortunes great and small, and from the numerous smaller accumulations not amounting to fortunes, is stupendous in amount and is an ever-widening and deepening flow of voluntary help, benefaction, public betterment, and charity spreading through all the land and the motive is “good will toward men.” But when by legal enactment through the votes of those who have little or no property, the property of the rich must bear an unequal share of property burdens and a class line between the poor and the rich shall have been drawn upon the statute books, then the owners of this property, feeling that they are being unjustly treated in the forcible exactions thus made of them, will, in general, withhold their help from those who make such exactions and will cease to bestow any of their property in benefactions for the general good, and the poor and the rich having thus been set against each other in class antagonism and the quality of the larger part of the citizenship having deteriorated through this beginning in the practice of injustice, the demands for greater encroachments upon the property of the rich and afterwards upon that of the well-to-do, and for more benefits to the poor from the public treasury thus replenished, will be gradually increased. For when by State aid, a burden has been

shifted upon others or a want supplied, it becomes a precedent and further demands for such legislation become progressive in the extent and amount of the class benefits thus sought to be obtained. Already the question of providing meals for the children of the poor in the public schools of London has entered into "the domain of practical politics and legislative enactment." The Provision of Meals Bill, has been introduced in Parliament and its enactment is being strenuously urged. Should it become law, the result which will almost inevitably follow is thus set forth by one of the opponents of the Bill, in the Nineteenth Century Magazine for May, 1906:

"The knowledge that the cost comes out of the rates will enormously increase the number of applicants, hundreds of thousands of whom will claim that as they contribute to the rates they have a right to share in any expenditure which is derived therefrom. Inquiry into the reality of distress being made in secret will necessarily be superficial and inefficient. To save parents from the shame of confessing poverty the check of shame at being convicted of making fraudulent claims for relief, will be abandoned. A prospect of ever increasing expenditure, pauperization, and destruction of parental responsibility lies before us."

There was many a step downward between Rome at her best, when her citizenship was just and self-respecting, and Rome in her decadent days when her debauched citizenship clamored for and obtained at the expense of the State, "bread and the circus," but the first step, unchecked, in that progressive downward course was as fatal as the last, and there was a time when Rome was farther from the demand for "bread and the circus" than the United States will be when the majority of its voters having little or no property, depart from the principle of equality of rights and burdens and by legal enactment of graduated or progressive taxation and other devices under the forms of law fill the public treasuries by putting unequal burdens and exactions on the property of the rich.

More than a million immigrants, having at most but a little property, and the great majority of whom have but crude ideas of the basic principles and safe-guards of a republican form of government, are being added annually to our population and are swelling that part of the electorate most responsive to demagogic appeals. Not all leaders who advocate the unequal and progressive taxation of the property of the rich are demagogues

—but not being a demagogue does not make one a statesman. Shining abilities, sincerity of purpose, and patriotic impulses, not illumined by wisdom, may inflict as much harm upon one's country as could be done by a greater and more enlightened mind controlled by a malevolent purpose. Even in a republic framed on just and equal laws there are many ills which are inseparable from life, but when the electorate is based entirely on manhood suffrage and is immense in numbers, thereby lowering the average quality of the citizenship, the majority chafing under these ills and resistless at the ballot-box are prone to look to legislation for relief. Out of these conditions well-meaning leaders spring, offering panaceas and contending for mastery. Mr. Bryan, the radical of a few years ago, has, although expanding his general plan of relief, become a conservative by contrast with Mr. Hearst who is contending with him for leadership by offering their followers a still larger scheme for encroachment upon the control of property belonging to others, and now President Roosevelt, moved by what he conceives to be the spirit of the times, and directed by his dominant trait—the desire to join the passing procession and be at one with the majority of the day—is yielding to these increasing forces of destructive unrest. Our republican scheme of government is now under a dangerous strain and all the conservative elements of our citizenship are now imperatively needed and should be summoned to put forth their utmost skill and strength to keep this republic firmly on the foundations whereon it was builded—the only foundations on which a republic can endure—equal rights and equal burdens. For if it remains not on these foundations, then we must look less to the frame of our government and more to the personal character and dispositions of our rulers for protection, and we shall settle down into the despairing conviction that

“For forms of government let fools contest

What'er is best administered is best.”

Beyond that, is first the Empire wearing the mask of the Republic and next the Empire with the mask thrown off. Such fate, if it should ever befall our country, may be far distant, but that it may not befall, we should not take the first step in the road that leads to it.

*Conservator.*



